

REMARKS

Claims in the case are 1-25, upon entry of this amendment. Claims 1, 7 and 8 have been amended, no claims have been added, and no claims have been cancelled herein.

The recitation of the graft polymer B.1 of Claim 1 has been amended herein to include a closed-end recitation of the redox initiation system by which graft polymer B.1 is prepared. Basis for the amendment to the recitation of graft polymer B.1 of Claim 1 is found at page 17, lines 11-25 of the specification. The recitation of the graft polymer B.2 of Claim 1 has been amended to include a closed-end recitation of the initiation system by which graft polymer B.2 is prepared (i.e., an initiation system consisting of persulfate compounds). Basis for the amendment to graft polymer B.2 of Claim 1 is found at page 17, line 30 through page 18, line 3 of the specification.

Claims 7 and 8 have been amended herein as to form by removing grammatically incorrect plural recitations.

Page 1 of the specification has been amended herein to include cross reference information relative to the related parent German patent application.

The drawings stand objected to on page 2 of the Office Action of 2 June 2005. Included in the appendix herewith are clear versions of Figures 1 and 2. The legend of Figure 2 has been modified to include the recitation "Prior Art." In light of the corrected drawings included herewith, reconsideration and withdrawal of the present objection is respectfully requested.

Claims 1, 2, 5, 8-20, 22 and 23 stand rejected under 35 U.S.C. § 102(b or e) as being anticipated by WO 01/16230 A1 or United States Patent No. 6,716,916 B1 (collectively **Sun et al**). This rejection is respectfully traversed in light of the amendments herein and the following remarks.

References to Sun et al will be made herein to United States Patent No. 6,716,916 B1, which is an English language equivalent of WO 01/16230.

Sun et al discloses a molding composition that may include two graft polymers that are each prepared by free radical polymerization using a catalyst

system includes **both** a persulfate compound (e.g., potassium peroxydisulfate) and a redox initiator system that includes an organic oxidizing agent (e.g., t-butylperoxide) and a reducing agent (e.g., sodium ascorbate). See the abstract, and column 9, line 49 through column 10, line 14 of Sun et al.

Sun et al discloses the preparation of graft polymers using an initiator system that necessarily must include a persulfate compound, an oxidizing agent and a reducing agent. Sun et al does not disclose, teach or suggest a molding composition that includes a combination of two graft copolymers in which one graft copolymer is prepared by means of redox initiation (in the absence of persulfate compounds), and the other graft copolymer is prepared by means of an initiator system that consists of persulfate compound (in the absence of a redox initiator system, i.e., in the absence of oxidizing agent and reducing agent).

In light of the amendments herein and the preceding remarks, Applicants' presently pending claims are deemed to be unanticipated by and patentable over Sun et al. Reconsideration and withdrawal of the present rejection is respectfully requested.

Claims 3, 6, 7 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sun et al in view of WO 00/06648 (**Van der Helder**). This rejection is respectfully traversed with regard to the amendments herein and the following remarks.

Sun et al has been discussed previously herein, and discloses a molding composition that may include two graft polymers that are each prepared by free radical polymerization using a catalyst system that includes both a persulfate compound (e.g., potassium peroxydisulfate) and a redox initiator system that includes an organic oxidizing agent (e.g., t-butylperoxide) and a reducing agent (e.g., sodium ascorbate).

Van der Helder discloses thermoplastic resin compositions that include, aromatic polycarbonate, a rubber modified graft polymer, a phosphorous containing flame retardant compound, and metallic particles. See the abstract, and pages 18-20 of Van der Helder.

Sun et al and Van der Helder, either alone or in combination do not disclose, teach or suggest the thermoplastic molding composition of Applicants' present claims. In particular, Sun et al and Van der Helder, either alone or in combination, do not disclose, teach or suggest a molding composition that includes a combination of two graft copolymers in which: one graft copolymer is prepared by means of redox initiation (in the absence of persulfate compounds); and the other graft copolymer is prepared by means of an initiator system that consists of persulfate compound (in the absence of a redox initiator system, i.e., in the absence of oxidizing agent and reducing agent).

In light of the amendments herein and the preceding remarks, Applicants' claims are deemed to be unobvious and patentable over Sun et al in view of Van der Helder. Reconsideration and withdrawal of the present rejection is respectfully requested.

Claims 1-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent No. 5,276,092 (**Kempner et al**) in view of Van der Helder. This rejection is respectfully traversed with regard to the amendments herein and the following remarks.

Kempner et al disclose core/shell additives that may be used in combination with other thermoplastic matrix polymers. Kempner et al disclose preparing core/shell additives by a process that includes: separate emulsion polymerizations of two different core/shell additives; mixing the core/shell additives together and co-agglomerating them; further encapsulating the co-agglomerated core/shell additives with a final shell; and isolating the encapsulated (or shelled) co-agglomerated core/shell additives by means of spray drying or a subsequent co-agglomeration step. See the abstract, and column 2, lines 5-33 of Kempner et al.

Van der Helder has been discussed previously herein and discloses thermoplastic resin compositions that include, aromatic polycarbonate, a rubber modified graft polymer, a phosphorous containing flame retardant compound, and metallic particles. See the abstract, and pages 18-20 of Van der Helder.

The rubber modified graft polymer of Van der Helder is disclosed as including a discontinuous elastomeric phase that is dispersed throughout a continuous rigid

thermoplastic phase (abstract; and page 1, line 12 through page 2, line 8). Kempner et al discloses core/shell additives that are co-agglomerated and then encapsulated in a further shell, as discussed previously herein. A core/shell polymer or co-agglomerated core/shell polymers that are encapsulated in a further shell have separate core and shell phases, and do not include a discontinuous polymeric phase that is dispersed throughout a continuous polymeric phase. As such, the graft copolymers of Van der Helder and the shell encapsulated co-agglomerated core/shell polymers of Kempner et al are not compatible or interchangeable one with the other, as would be recognized by a skilled artisan. As such, a skilled artisan would not be motivated to combine or otherwise modify Van der Helder and Kempner et al in an attempt to arrive at Applicants' presently claimed thermoplastic molding composition.

As the Court of Appeals for the Federal Circuit has stated, there are three possible sources for motivation to combine references in a manner that would render claims obvious. These are: (1) the nature of the problem to be solved; (2) the teaching of the prior art; and (3) the knowledge of persons of ordinary skill in the art. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1458 (Fed. Cir. 1998). The nature of the problem to be solved and the knowledge of persons of ordinary skill in the art are not present here and have not been relied upon in the rejection. As for the teaching of the prior art, the above discussion has established that neither of the patents relied upon in the rejection provide the requisite teaching, and certainly do not provide the motivation or suggestion to combine that is required by Court decisions.

Even if Kempner et al and Van der Helder were combined, the thermoplastic molding composition of Applicants' present claims would not result from such combination. Kempner et al and Van der Helder, either alone or in combination, do not disclose, teach or suggest a molding composition that includes a combination of two graft copolymers in which: one graft copolymer is prepared by means of redox initiation (in the absence of persulfate compounds); and the other graft copolymer is prepared by means of an initiator system that consists of persulfate compound (in the absence of a redox initiator system, i.e., in the absence of oxidizing agent and reducing agent).

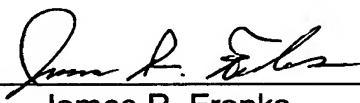
Further, the combination of Kempner et al and Van der Helder would result in a composition that necessarily includes shell encapsulated co-agglomerated core/shell polymers. The thermoplastic composition of Applicants' present claims does not include core/shell graft copolymers or shell encapsulated co-agglomerated core/shell graft copolymers.

Modifying "prior art references without evidence of such a suggestion, teaching or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability -- the essence of hindsight." *In re Dembiczak*, 175 F.3d 994, 999, 50 U.S.P.Q.2d 1614 (Fed. Cir. 1999).

In light of the amendments herein and the preceding remarks, Applicants' claims are deemed to be unobvious and patentable over Kempner et al in view of Van der Helder. Reconsideration and withdrawal of the present rejection is respectfully requested.

In light of the amendments herein and the preceding remarks, Applicants' presently pending claims are deemed to define an invention that is unanticipated, unobvious and hence, patentable. Reconsideration of the rejections and allowance of all of the presently pending claims is respectfully requested.

Respectfully submitted,

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APPENDIX

Corrected Drawing Sheets for Figures 1 and 2.